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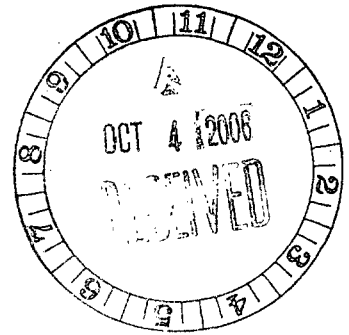
Mack H. Shumate, Jr.  
Senior General Attorney, Law Department

ENTERED  
Office of Proceedings

OCT 04 2006

Part of  
Public Record

October 3, 2006



**VIA U.P.S. OVERNIGHT DELIVERY**

Mr. Vernon Williams, Secretary  
Surface Transportation Board  
1925 "K" Street, N.W.  
Washington, DC 20423-0001

**RE: Docket No. AB-33 (Sub-No. 168X), Union Pacific Railroad Company -  
Abandonment Exemption - in Hardin County, Iowa (Marshalltown  
Industrial Lead) Between Eldora, IA and Steamboat Rock, IA and the Eldora  
Junction Line in Eldora, IA**

Dear Mr. Williams:

The Union Pacific Railroad Company has received a request to extend the time period to negotiate from the City of Eldora, Iowa and the Iowa Natural Heritage Foundation for its Notice of Interim Trail Use pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 regarding that portion of the Union Pacific's right-of-way known as the Eldora Junction Line from M.P. 6.22 to M.P. 5.10 in the City of Eldora, Hardin County, Iowa.

At this time, the Union Pacific is willing to continue to negotiate with the City of Eldora concerning the acquisition of the subject property for trail use and supports the City of Eldora's request to extend the time period to negotiate for an additional period to and including April 8, 2007. A copy of Eldora's request extending the period to April 8, 2007 dated October 2, 2006 is attached hereto as Exhibit "A" and is hereby made a part hereof. This request does not include that portion of the Line, which is the subject of this abandonment proceeding, referred to as the Marshalltown Industrial Lead.

Ten (10) additional copies of this letter and exhibit are enclosed for the Board's use and distribution.

Sincerely yours,

Mack H. Shumate, Jr.

Enclosures

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# City of Eldora



1442 Washington Street  
Eldora, Iowa 50627 (641) 939-2393

October 2, 2006

Vernon A. Williams, Secretary  
Surface Transportation Board  
1925 "K" Street, NW  
Washington, D.C. 20423-0001



VIA FAX: 202-565-9002

## BEFORE THE SURFACE TRANSPORTATION BOARD

RE: Union Pacific Railroad Abandonment, Hardin County Iowa;  
Docket # AB-33 (Sub-No. 168X) – Eldora Junction Line in Eldora, Iowa

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### Motion to Extend the Time Period for Negotiation of an Interim Trail Use/Railbanking Agreement

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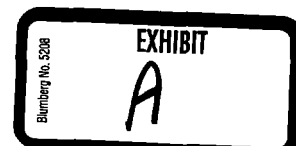
The City of Eldora and the Iowa Natural Heritage Foundation (INHF) hereby request the Surface Transportation Board (STB or Board) to extend the time period for negotiation of a mutually acceptable interim trail use/railbanking agreement in this proceeding up and including **April 8, 2007**.

The parties involved need more time to finalize the acquisition of the corridor. To successfully preserve this corridor for interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 U.S.C. 1247 (d), it is necessary for the negotiation period under the NITU to be extended up to and including **April 8, 2007**. See Policy Statement on Rails to Trails Conversions, Ex Parte No. 274 (Sub. No. 13b) (ICC served Feb. 5, 1990) (extensions of time promote the establishment of trails and railbanking consistent with the National Trails System Act).

Since the issuance of the NITU, UPRR at all points has maintained intent to transfer the line intact for interim trail use. The railroad has not sold, or offered for sale, any parcels of land that would interfere with interim trail use and



Home of Pine Lake State Park



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railbanking of the portion of the corridor that is covered by the NITU (Eldora Junction). The line remains intact and throughout the period, the railroad has been negotiating with INHF for the transfer or sale of the corridor intact. Accordingly, the Board retains jurisdiction to extend the NITU to continue bona fide and active negotiations for interim trail use of the line.

In similar instances, this Board has reopened proceedings to permit the issuance of orders implementing section 8(d) for rail lines. The STB's authority to extend a NITU was upheld in *Birt v. STB*, 90 F.3d 580 (D.C. Cir. 1996). Here the parties merely seek and extension in the period for negotiation provided in a previously issued NITU. Such an extension will promote and further the purposes of the Trails Act.

For the reasons stated, the City of Eldora and the Iowa Natural Heritage Foundation requests that an extension of the NITU negotiation period be granted through April 8, 2007.

Respectfully Submitted,

, Manager  
City of Eldora



Home of Pine Lake State Park

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Eldora, Iowa 50627 (641) 939-2393

## CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2006 I have served a true and accurate copy of the foregoing motion on the following party via first-class mail, postage pre-paid and via FAX to 312-777-2065.

Mack H. Shumate, Jr.  
Union Pacific Railroad  
101 N. Wacker Dr. Rm 1920  
Chicago, IL 60606-1718

A handwritten signature in black ink, appearing to be "M. Shumate".

, Manager  
City of Eldora

Copy to:

Denny Brown  
Union Pacific Railroad  
1800 Farnam St.  
Omaha, NE 68102

Mark Ackelson  
Iowa Natural Heritage Foundation  
505 5<sup>th</sup> Ave. Suite 444  
Des Moines, Iowa 50309



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